

**UNITED STATES DISTRICT COURT
BALTIMORE, MARYLAND**

LESTER SMALL)	
12414 Persimmon Road)	
Upper Marlboro, MD 20772)	
Plaintiff)	
Vs.)	Case No.:
Greg Collett , District Director)	
United States Immigration and)	
Citizenship Service)	
)	
And)	
Jeff Sessions Attorney General)	
U.S. Department of Justice)	
950 Pennsylvania Avenue, NW)	
Washington, DC 20530-0001)	
Defendants)	
_____)	

**PLAINTIFF'S ORIGINAL COMPLAINT FOR WRIT IN THE NATURE OF
MANDAMUS**

COMES NOW the Plaintiff LESTER SMALL by and through his attorney the LAW OFFICES OF DENNIS A. BAIRD and Sean A. Baird Esq., and hereby files this mandamus action based on the foregoing:

1. That this action is brought against the Defendants to compel action for a I-485 adjustment of status application filed by the Plaintiff. The application was filed and remains within the jurisdiction of the Defendants, who have improperly withheld action on said petition to Plaintiff detriment.

PARTIES

2.Plaintiff Victor Arthur is a 34 year old native and citizen of Trinidad He entered the United States on February 28, 2003 in New York, New York.

4.Defendant District Director Collett is an official of the USCIS generally charged with supervisory authority over all operations of the USCIS within his District with certain specific exceptions not relevant here. 8 CFR §103.1(g)(2)(ii)(B). As will be shown, Defendant District Director Collett is the official with whom Plaintiffs' I-485 immigrant petition remains unadjudicated.

5.Defendant Jeff Sessions is Attorney General of the United States, and this action is brought against him in his official capacity. He is generally charged with enforcement of the Immigration and Nationality Act, and it is further authorized to delegate such powers and authority to subordinate employees of the Department of Justice. 8 USC § 1103(a). More specifically, the Attorney General is responsible for the adjudication of I-130 immigrant petitions and I-485 applications for permanent residents. The United States Citizenship and Immigration Service (USCIS) is an agency within the Department of Homeland Security to whom the Attorney General's authority has in part been delegated and is subject to the Attorney General's supervision.

JURISDICTION

6.Jurisdiction in this case is proper under 28 USC §1331 and §1361, 5 USC §701 et seq., and 28 USC §2201 et.seq. Relief is requested pursuant to said statutes.

VENUE

7.Venue is proper in this court, pursuant to 28 USC §1391(e), in that this is an action against officers and agencies of the United States in their official capacities, brought in the

District where a Defendant resides and where a substantial part of the events or omissions giving rise to Plaintiffs' claim occurred. More specifically, Plaintiff's I-485 petition for an alien relative was filed with the USCIS in St. Albans, Vermont and appropriately transferred to the Baltimore, Maryland for regional adjudication.

EXHAUSTION OF REMEDIES

8. Plaintiffs' have exhausted their administrative remedies. Plaintiffs' have, through their attorney, made numerous telephonic, written and in-person inquiries concerning the status of the pending petition but their efforts have been futile.

CAUSE OF ACTION

9. On or about February 13, 2015 Plaintiff Lester Small filed an I-485 application for adjustment of status.

10. That at the time of said filing, such applications were being adjudicated by the Defendant District Director generally took between 150 to 200 days.

11. That at least four times in 2018 undersigned counsel has appeared at the USCIS office in Baltimore, MD and has been informed that the application is still pending.

12. For approximately three years the Baltimore office has the application pending and it has not been fully adjudicated.

13. That the Defendants have sufficient information to determine Plaintiffs' eligibility pursuant to applicable requirements. To date said application has not been adjudicated.

14. That the Defendants' refusal to act in this case is, as a matter of law, arbitrary and not in accordance with the law.

15. That the Defendants' willfully, and unreasonably, have delayed in and have refused to adjudicate Plaintiffs' application hereby depriving them of the right to a decision on their petition.

16. That the failure by the District Director to adjudicate I-485 petition is causing irreparable harm to the Plaintiff Lester Small as he is not able to adjust his status to that of a permanent resident.

18. That the Plaintiff has been greatly damaged by the failure of Defendants to act in accord with their duties under the law.

19. The Plaintiff Lester Small faces irreparable harm if this petition is not immediately adjudicated as he could face deportation or permanent banishment from the United States

21. That the Defendants, in violation of the Administrative Procedures Act, 5 USC §701 *et seq.*, are unlawfully withholding or unreasonably delaying action on Plaintiffs' petition and have failed to carry out the adjudicative functions delegated to them by law with regards to Plaintiff's case.

22. That the Plaintiffs have made numerous status inquiries in an attempt to secure adjudication of their applications, all to no avail.

23. That because the Plaintiff's attempts to have an I-485 application adjudicated have been futile, the Plaintiffs' have been forced to retain the services of an attorney to pursue the instant action.

24. That the Plaintiffs' have incurred substantial costs.

WHEREFORE, in view of the arguments and authority noted herein, Plaintiffs respectfully pray that the Defendants be cited to appear herein and that, upon due consideration, the Court:


- (a) require the Defendants to adjudicate the Plaintiffs' I-485 application for adjustment of status ;
- (b) award the Plaintiffs' \$100,000 dollars plus the cost of this action;
- (c) award the Plaintiffs' attorneys fees in the amount of \$20,000 dollars.
- (d) For such other and further relief that this court may deem and proper.



LESTER SMALL

Respectfully submitted,

LAW OFFICES OF DENNIS BAIRD

By 

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